

You are hereby notified that you have twenty (20) days within which to respond to the herein Answer with New Matter.

*Tracey M. McDevitt, Esquire
Attorney for Defendants*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COLEEN RISPO

Plaintiff

v.

**ABBY LOVING, PAUL LOVING and
SUSAN LOVING**

Defendants

CIVIL ACTION NO. 02-3759

**DEFENDANTS' ABBY LOVING, PAUL LOVING AND SUSAN LOVING
ANSWER WITH AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT**

Defendants, Abby Loving, Paul Loving and Susan Loving, by and through their attorneys, Reilly, Janiczek & McDevitt, P.C., hereby respond to the Complaint of Plaintiff, Coleen Rispo, as follows:

1. Denied. After reasonable investigations, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

2. Admitted.

3. Admitted.

4. Admitted in part. Denied in part. It is admitted that an accident occurred on January 1, 2001 in Northeast Philadelphia at or near Ryan Avenue. It is further admitted that on January 1, 2001, Defendant, Abby

Loving, was operating a motor vehicle on Ryan Boulevard. It is further admitted that Susan Loving was the owner of the vehicle operated by Abby Loving on January 1, 2001 on Ryan Avenue. The remainder of the averments in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

5. Admitted in part. Denied in part. It is admitted that Abby Loving was operating a motor vehicle on January 1, 2001 with the permission of the owner of the vehicle. It is admitted that defendant, Susan Loving, was the owner of the vehicle operated by Abby Loving. The remainder of the averments in this paragraph are denied and strict proof thereof is demanded at trial.

6. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

7. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack

sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

It is specifically denied that the alleged injuries or damages to Plaintiff are serious, permanent or causally related to the accident. It is specifically denied Plaintiff's alleged injuries caused a serious impairment of bodily function. By way of further response after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in these paragraphs and, therefore, denies same and demands strict proof thereof at trial.

8. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

It is specifically denied that the alleged injuries or damages to Plaintiff are serious, permanent or causally related to the accident. It is specifically denied Plaintiff's alleged injuries caused a serious impairment of bodily function. By way of further response after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in these paragraphs and, therefore, denies same and demands strict proof thereof at trial.

9. Denied. The averments contained in this paragraph

state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

It is specifically denied that the alleged injuries or damages to Plaintiff are serious, permanent or causally related to the accident. It is specifically denied Plaintiff's alleged injuries caused a serious impairment of bodily function. By way of further response after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in these paragraphs and, therefore, denies same and demands strict proof thereof at trial.

10. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

11. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the

truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

12. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

WHEREFORE, Answering Defendants, Abby Loving, Paul Loving and Susan Loving, demand judgment in their favor against Plaintiff, plus interests, costs, fees and other relief deemed appropriate.

COUNT ONE

13. It is specifically denied that the alleged injuries or damages to Plaintiff are serious, permanent or causally related to the accident. It is specifically denied Plaintiff's alleged injuries caused a serious impairment of bodily function. By way of further response after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in these paragraphs and, therefore, denies same and demands strict proof thereof at trial.

14. (a)-(j) Answering Defendants deny that they were grossly negligent, negligent,

careless and/or reckless, either in general or by any of the means specified in subparagraphs (a) through (j) of this paragraph of Plaintiff's Complaint. To the contrary, Answering Defendants acted reasonably and with due care at all times and their conduct neither caused nor contributed to injury or loss, if any, to the Plaintiff. The remaining averments of this paragraph of Plaintiff's Complaint constitute conclusions of law to which no response is required under the applicable Rules of Civil Procedure and they are therefore deemed denied.

15. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

WHEREFORE, Answering Defendants, Abby Loving, Paul Loving and Susan Loving, demand judgment in their favor against Plaintiff, plus interests, costs, fees and other relief deemed appropriate.

COUNT TWO

16. Answering Defendants incorporate by reference paragraphs (1) through (15) stated above as though fully set forth herein at lengths.

17. (a)-(j) Denied. Answering Defendants deny that they were grossly negligent, negligent, careless and/or reckless, either in general or by any of the means specified in subparagraphs (a) through (j) of this paragraph of Plaintiff's Complaint. To the contrary, Answering

Defendants acted reasonably and with due care at all times and their conduct neither caused nor contributed to injury or loss, if any, to the Plaintiff. The remaining averments of this paragraph of Plaintiff's Complaint constitute conclusions of law to which no response is required under the applicable Rules of Civil Procedure and they are therefore deemed denied.

18. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

WHEREFORE, Answering Defendants, Abby Loving, Paul Loving and Susan Loving, demand judgment in their favor against Plaintiff, plus interests, costs, fees and other relief deemed appropriate.

AFFIRMATIVE DEFENSES

19. Plaintiffs assumed the risk of all injuries which limits and/or bars all claims.
20. Plaintiffs' claims are barred by the Comparative Negligence Statute.
21. Plaintiffs' claim fails to state any cause of action against Answering Defendants upon which relief can be granted.
22. Plaintiffs' claims are barred by the Statute of Limitations and/or Laches.
23. Plaintiffs' claims are barred by the applicable Worker's Compensation Act.

24. Plaintiffs' claims are barred because of an expressed or implied contract and/or release.

25. Plaintiffs' claims are barred because of statutory and/or common law.

26. Plaintiffs' claims are barred because of the doctrine of single controversy, merger and bar, res judicata and/or collateral estoppel.

27. Plaintiffs' claims are barred by the appropriate provisions of the No-Fault Financial Responsibility Act.

28. Plaintiffs' claims are barred because of improper service of process.

29. Plaintiffs' claims are barred because of the doctrine of superseding and/or intervening cause.

30. Plaintiffs' claims are barred by the doctrine of accord and satisfaction.

31. Plaintiffs' claims are barred by the doctrine of waiver and/or estoppel.

32. Plaintiffs' claims are barred because the Court lacks jurisdiction over the subject matter of this law suit.

33. Plaintiffs' claims are barred because of improper venue.

34. At the time of the automobile accident, Plaintiffs were named insureds or insured under a policy of insurance which provided "limited tort" benefits.

35. At the time of the automobile accident. Plaintiffs were the owner of a

registered,
but uninsured automobile, and accordingly, is deemed to have selected the limited tort option.

36. Plaintiffs did not sustain a "serious injury" within the meaning of 75 Pa.C.S.A. § 1705, which is incorporated herein by reference.

37. Plaintiffs did not sustain a "permanent serious disfigurement" within the meaning of 75 Pa. C.S.A. § 1705, which is incorporated herein by reference.

38. Plaintiffs' claim for non-economic detriment is barred and/or limited to the extent that they failed to prove that they have suffered a "serious injury" within the meaning of 75 Pa. C.S.A. § 1705, which is incorporated herein by reference.

39. Plaintiffs' claims are barred because of their ownership and operation of a motor vehicle without insurance as required under the Pennsylvania Motor Vehicle Financial Responsibility Act as found in 75 Pa.C.S.A. § 1701 *et seq.*

40. Plaintiffs' injuries are not permanent in nature or a significant impairment of any major bodily system and, as such, Plaintiffs are precluded from seeking redress of injuries pursuant to the Pennsylvania Motor Vehicle Financial Responsibility Act as found in 75 Pa.C.S.A. § 1701 *et seq.* having been deemed to have elected the limited tort option.

41. Plaintiffs' claim for damages are barred because any medical bills were

“paid or
are payable” pursuant to the Motor Vehicle Financial Responsibility Law.

WHEREFORE, Answering Defendants, Abby Loving, Paul Loving and Susan Loving, demand judgment in their favor against Plaintiff, plus interests, costs, fees and other relief deemed appropriate.

REILLY, JANICZEK & McDEVITT, P.C.

Tracey M. McDevitt, Esquire
Identification No. 78353
The Widener Building, One South Penn Sq.
Suite 520
Philadelphia, PA 19107
(215) 972-5200
Attorneys for Defendants
Abby Loving, Paul Loving and Susan Loving

Dated: July 12, 2002

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

VERIFICATION

I,, Tracey M. McDevitt, Esquire, hereby these presents, swears, attests and affirms that she is sufficiently familiar with the facts contained herein to say that they are true and correct to the best of her knowledge, information and belief. I understand that false

statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Tracey M. McDevitt, Esquire

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COLEEN RISPO,

Plaintiff

vs.

**ABBY LOVING, PAUL LOVING and
SUSAN LOVING,**

Defendants

CIVIL ACTION NO. 02-3759

CERTIFICATE OF SERVICE

I, *Tracey M. McDevitt, Esquire*, attorney for Defendants Abby Loving, Paul Loving and Susan Loving, hereby certifies that a true and correct copy of the attached *Defendants' Abby Loving, Paul Loving and Susan Loving Answer with Affirmative Defenses Plaintiff's Complaint* , was served upon counsel as follows by United States Mail, first class, postage pre-paid:

**Rudolph DeGeorge, Esquire
Stampone, D'Angelo & Renzi, P.C.
103 Township Line Road
Jenkintown, PA 19046**

REILLY, JANICZEK & McDEVITT, P.C.

By: _____
Tracey M. McDevitt

Dated: July 12, 2002